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PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

HEARING DATE: December 19, 2002

TO: Orange County Zoning Administrator

FROM: Current Planning Services Division

SUBJECT: Public Hearing on Planning Application PA02-0101 for Use Permit

PROPOSAL: The applicant is proposing to construct over-height walls within the front and side setback areas, install an 18-foot long driveway with a grade in excess of minus 6%, and to construct a detached carport in excess of 12 feet within the 20' required side yard setback.

LOCATION: 1887 E. Lemon Heights Drive, in the North Tustin area within the 3rd Supervisorial District.

APPLICANT: Paul & Susan Accongio

STAFF CONTACT: James Thue, Project Manager
Phone: (714) 834-2179 FAX: (714) 834-4652

SYNOPSIS: Current Planning Services Division recommends Zoning Administrator approval of PA 02-0101 subject to findings and conditions.

BACKGROUND:

The project site is zoned E4 "Small Estates" District. The purpose of the "Small Estates" District is to provide for the development and maintenance of low-medium density single-family residential neighborhoods where open spaces and deep setbacks predominate. The lot is approximately 90 feet deep by 200 feet wide. The property is located on a steep downward sloping hill.

In 1988 building permits were issued for the construction of a two story single-family dwelling unit on the subject property. The structure was under construction and then abandoned before completion. The basic dwelling is completed and was abandoned some time ago. While left vacant the structure was vandalized and became a nuisance to the community. The building permit states that a detached garage was to be constructed under a separate permit. However, the structure has an attached garage located on the rear of the building. No driveway was installed. Although a neighbor has a private driveway located off Bent Tree Lane an access easement would be required over a portion the neighbor's property in order for the applicant to construct a driveway to the existing garage. No agreement has been reached regarding as access easement and therefore the applicant is proposing to gain access off of Lemon Heights Drive. This

planning application is to permit the construction of a carport in excess of 12 feet and the installation of a steep driveway that incorporates over-height retaining walls.

SURROUNDING LAND USE:

The project site and all surrounding properties are zoned E4 “Small Estates” District and are developed with single-family dwellings.

REFERRAL FOR COMMENT AND PUBLIC NOTICE:

A Notice of Hearing was mailed and posted as required by law. A copy of the planning application and a copy of the proposed site plan were distributed to 6 County divisions and the North Tustin Advisory Committee. As of the writing of this staff report, no objections to the project have been received. The proposal was approved by the North Tustin Advisory Committee on November 20, 2002. No comments raising issues with the project have been received from other County divisions by staff.

CEQA COMPLIANCE:

Pursuant to the California Environmental Quality Act (CEQA), the proposed project is Categorically Exempt from the requirements (Class 1).

DISCUSSION/ANALYSIS:

The applicant is requesting three separate deviations from the standard requirements of the Zoning Code due to special circumstances relating to the property and the design of the existing structure. Deviations include steeper than permitted driveway, over-height structure within the required setbacks, and over-height walls within the required setbacks.

The applicant proposes to construct a steep driveway down the hill from Lemon Heights Drive to gain access to the existing structure. Zoning Code Section 7-9-145.2 states that whenever access is taken from a street to an off-street parking area that the driveway shall have a maximum grade of plus fifteen percent (15%) or minus six percent (-6%) as measured from the street along the driveway centerline. The applicant is proposing a grade in excess of minus 6%. The driveway at the street starts down at -6%, increases to -12%, and has a maximum grade of -18% before leveling out in front of the carport with a grade of approximately -4%. A use permit is required in-order to construct a driveway with a grade in excess of -6%. The applicant has filed for an encroachment permit to construct the driveway within the road right of way, however a separate encroachment permit is required to construct walls within the road right of way.

The proposal also includes the construction of a carport within the side yard setback area. The driveway winds down the hill. The carport will be located below the street level, but raised above the existing grade elevation. Zoning Code Section 7-9-137 states that garages and carports maybe constructed any place within the required setback areas. However, accessory structures, which are within the required setback areas, are limited to twelve feet in height, unless it is within three feet of a property line, in which case it shall be limited to 8 feet in height. The 12 foot tall carport will be constructed on top of retaining walls measuring 8 feet in height above the finished grade. Therefore the carport becomes an over-height structure. The carport will be located 5 feet from the side property line instead of the required setback of 20-feet. A use permit is required for the over-height structure. Detailed building plans are included in Exhibit 3.

To allow for the construction of the driveway and the carport on the hillside the applicant is proposing to construct several over-height walls within the front and side setback areas. Walls in the front of the residence will encroach into the road right-of-way and will require an encroachment permit. Retaining

walls measuring up to 8 feet in height will be located within the front setback area. A wrought iron fence will be located on a portion of the block wall, increasing the height by approximately 3.5 feet. Walls within the side and front yard will be internal walls constructed to provide a maneuvering area from the carport to the driveway. As discussed above over-height walls will provide support for the carport. The walls will not be visible from the street. These over-height walls measuring up to approximately 11 feet in height within the front setback area require a use permit.

A Special Investigation Permit SI-010029 was issued in order to determine if the structure is in compliance with the uniform building code requirements. It was determined that a new garage and driveway be included on the new plans for the residence. If this planning application is approved and construction is completed, the code enforcement officer can close the special investigation.

The existing structure meets the site development standards for the E4 District. All setback requirements are satisfied for the existing structure and the structure meets the 35-foot building height limit. The 35% maximum Building Site Coverage for the lot will not be exceeded with the addition of the carport. Off street parking will be satisfied upon completion of the driveway and carport.

CONCLUSION OR SUMMARY:

Although an existing garage exists in the rear of the structure no access can be gained from the rear. The structure was left abandoned for nearly 13 years and became a nuisance to the neighborhood. The special investigation states that a garage and driveway must be shown on any new plans submitted to them and that they must be constructed before the house receives a use and occupancy permit. The following findings must be made prior to the approval of a use permit for over-height walls:

1. The height and location of the fence or wall as proposed will not result in or create a traffic hazard.
2. The location, size, design, and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

The Subdivision and Traffic Studies Section has reviewed the walls in the road right of way and has no objection to the proposal. An encroachment permit will be required for walls within the road right of way.

Findings must be made for alternative off-street parking to be implemented. The following findings must be made in order for the applicant to construct the excessively steep driveway:

1. Applicable off-street parking requirements are excessive or inappropriate due to the nature of the specific use involved or because of special circumstances applicable to the property; and
2. The proposed off-street parking facilities comply with the intent of these regulations as specified by section 7-9-154.1.

Special circumstances including the steepness of the property along with the existing structure and the inability to gain access to the existing garage create a situation where the only resolution is to deviate from the required regulations to gain access to the property.

RECOMMENDED ACTION:

Current Planning Services Division recommends the Zoning Administrator:

- a. Receive staff presentation and public testimony as appropriate; and,
- b. Approve Planning Application PA 02-0101 for a Use Permit subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Section Chief
CPSD/Site Planning Section

JJT

ATTACHMENTS:

- Appendix A. Recommended Findings
- Appendix B. Recommended Conditions of Approval

EXHIBITS:

1. Applicant's Letter of Explanation
2. Site Photos
3. Project Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.